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| APPLICATION NO. | FILING DATE. | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/667,248 | 09/17/2003 | Michael Adam | ZIM0590 | 1126 |
| 832 BAKER & DA | 7590 10/18/200° NIFI S I I P | EXAMINER | | |
| 111 E. WAYNE STREET | | | HOFFMAN, MARY C | |
| | SUITE 800 FORT WAYNE, IN 46802 | | ART UNIT | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| Office Action Summary Application No. 10/687,248 ADAM. MICHAEL | | A C N | [A 1 1 1 | | |
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| Examiner Mary Hoffman The MAILING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be available under the problemes of 3°C CPR 1.186(a). In ore earth however, may a reply be simely filled 1° NO period for reply is specified above, the maximum statutory selected will apply and will expire SX (8) MONTHS from the mailing sale of this communication. 1° NO period for reply is specified above, the maximum statutory selected will apply and will expire SX (8) MONTHS from the mailing sale of this communication. 1° NO period for reply is specified above, the maximum statutory selected will apply and will expire SX (8) MONTHS from the mailing sale of this communication. 1° NO period for reply is specified above, the maximum statutory selected will apply and will expire SX (8) MONTHS from the mailing sale of this communication. 1° NO period for reply is specified above, the maximum statutory selected this communication over if filmely filled, may reduce any entered period to the communication over if filmely filled, may reduce any entered period to the communication over if filled on 10° 1.10 | | Application No. | Applicant(s) | | |
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| Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Estansina of time may be available under the provisions of 37 CFR 1.135(a). In no event, however, may a reply be timely like after Six (is) MONTHS from the mailing date of this communication. If NO period or reply is specified above, the mailing date of this communication. Failure to reply within the set or extended period for reply with by statute, cause the application to become ABANDONED (35 U.S.C.§ 1.33). Any reply received by the Six field above, the maining date of this communication. Failure to reply within the set or extended period for reply with the state of extended period for reply with period and the set of the second period will apply and will expire Six (it) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply will be stated to the second period of reply will be applyed and the second period of reply will be applyed and the second period of reply will be second period of reply will be applyed and the second period of reply will be applyed and the second period of reply will be applyed and the second period of reply will be applyed and the second period of reply will be applyed to reply will be applyed to reply and the second period of reply second period of the second period of reply and the second period of reply second period of the second period of reply second period of the second period period of the second period per | Office Action Summary | | | | |
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| WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extrasions of time may be available under the provisions of 37 CFR 1.35(a). In no event, however, may a reply be timely flied after SIX (6) MONTHS from the mailing date of this communication. Failure to reply within the set or extended period for reply within the set or extended period for reply is specified above, the maining maining date of this communication. Failure to reply within the set or extended period for reply with by statute, cause the application to become ABANDONED (35 tl. SC § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if simely flies, may reduce any searned patent term adjustment. See 37 CFR 1.794(b). Status 1) ■ Responsive to communication(s) filled on 09/26/2007. 2a) ■ This action is FINAL. 2b) ■ This action is non-final. 3) ■ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) ■ Claim(s) 1.9 and 11-28 is/are pending in the application. 4a) Of the above claim(s) 2-9.18-20.23-24.26-27 is/are withdrawn from consideration. 5) ■ Claim(s) 1.11-17.21 and 22 is/are allowed. 6) ■ Claim(s) 1.11-17.21 and 22 is/are allowed. 6) ■ Claim(s) 25 is/are objected to 80 the Examiner. 10 ■ The specification is objected to by the Examiner. 10 ■ The drawing(s) filled on 17 September 2003 is/are: a) ■ accepted or b) ■ objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to See 37 CFR 1.121(d). 11) ■ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12) ■ Acknowledgment is made of a claim for foreign priority documents have been re | | ppears on the cover sheet w | nai the correspondence address | | |
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| application from the International Bureau (PCT Rule 17.2(a)). | | | Application No | | |
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| * See the attached detailed Office action for a list of the certified copies not received. | application from the International Bure | eau (PCT Rule 17.2(a)). | | | |
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| Attachment(s) | Attachment(s) | | | | |
| 1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) | | | | | |
| 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) Paper No(s)/Mail Date Notice of Information Disclosure Statement(s) (PTO/SR/08) Notice of Information Disclosure Statement(s) (PTO/SR/08) | | | | | |
| 3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other: | • • | · | | | |

Art Unit: 3733

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/26/2007 has been entered.

Election/Restrictions

Claims 2-9, 18-20, 23-24 and 26-28 are currently withdrawn (see previous office actions mailed 10/06/2005 and 02/23/2006). This includes newly added claim 28, which depends from previously withdrawn claim 3. Applicant must correctly label these claims with the proper status identified (Withdrawn).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 25 is rejected under 35 U.S.C. 102(e) as being anticipated by Gosney et al. (U.S. Patent No. 6,010,506).

Gosney et al. disclose a bone fixation nail (FIG. 1) comprising: a longitudinal axis, a longitudinal bore, and three transverse bores each defining a longitudinal axis, wherein each of said longitudinal axes defined by said three transverse bores is non-parallel and non- intersecting with respect to both of the other of said longitudinal axes of said transverse bores, the transverse bores having an essentially circular cross-section; wherein the longitudinal bore is <u>capable</u> of receiving a bushing-like or sleeve-like member; and wherein the transverses bores are configured so as to define a different spatial orientation and a position in three dimensions of a member inserted through each transverse bore.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Huebner et al. (U.S. Patent No. 5,472,444).

Huebner et al. discloses a bone fixation nail (FIG. 2) comprising: a longitudinal axis, a longitudinal bore, and three transverse bores each defining a longitudinal axis,

wherein each of said longitudinal axes defined by said three transverse bores is non-parallel and non- intersecting with respect to both of the other of said longitudinal axes of said transverse bores, the transverse bores having an essentially circular cross-section; wherein the longitudinal bore is adapted to receive a bushing-like or sleeve-like member; and wherein the transverses bores are configured so as to define a different spatial orientation and a position in three dimensions of a member inserted through each transverse bore.

Allowable Subject Matter

Claims 1, 11-17 and 21-22 are allowed.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are most in view of the new ground(s) of rejection.

The rejections are deemed proper.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Hoffman whose telephone number is 571-272-5566. The examiner can normally be reached on Monday-Friday 9:00-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo C. Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MCH

FOUARDO C. ROBERT